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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/788,592	02/21/2001	Hidetoshi Iwasaki	203518US2S	8767
22850	7590	04/04/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			NG, CHRISTINE Y	
			ART UNIT	PAPER NUMBER
			2663	

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/788,592

Applicant(s)

IWASAKI ET AL.

Examiner

Christine Ng

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13 is/are allowed.
- 6) ☒ Claim(s) 14 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,678,250 to Grabelsky et al in view of U.S. Patent No. 6,785,285 to Romana et al.

Grabelsky et al disclose in Figure 1 nodes (Gateways 20-23) which are connected via a communication circuit (PSTN 16) and constitute a network (Packet network 30) and which transmit communication data over the network (Packet network 30). Refer to Column 4, lines 4-11. Each of the nodes (Gateways 20-23) comprises:

Performance data generating means (Database 14) for measuring individual data items about the monitoring items defined for a plurality of objects (Figure 3, Elements 45-50) to be measured according to a specific schedule and, on the basis of the result of the measurement, creating performance data (Sender reports SRs and Receiver reports RRs). Each gateway 20-23 includes "a database 14 to collect and maintain network performance information..." (Column 5, lines 55-57) and to generate periodic SRs and RRs that "carry information that characterize packet delivery conditions on the network carrying the RTP traffic" (Column 6, lines 10-17). Refer to Column 9, lines 61-67.

Message creating means (Figure 3, RTCP) for dividing the data items forming said performance data (SRs and RRs) into the parts common (Figure 3, Fields 41 and 44) to the individual pieces of performance data (SRs and RRs) and the parts not common (Figure 3, Fields 45-50) to the individual pieces of performance data (SRs and RRs), and adding a plurality of non-common parts (Fields 45-50 of RRs 42,43) to one common part (Fields 41 and 44) to create a performance data message (Figure 3). "Multiple RTCP reception report blocks 42,43 can be sent together as part of a compound RTCP 40 within a single packet..." (Column 6, lines 44-47). The reception report block 42,43 carries data that describes statistical properties of the RTP packets it is receiving, as defined in fields 45-50 of the RTCP packet 40. Each RTCP packet 40 also contains a fixed header 41 and sender information block 44. Refer to Column 6, line 40 to Column 7, line 41.

Grabelsky et al do not disclose that the gateways 20-23 are SONET/SDH nodes.

Romana et al disclose in Figure 1 a plurality of SONET/SDH nodes 14 connected in a SONET ring 12 over an IP network. "Each node can act as a gateway to transmit and receive management and control messages..." (Column 2, lines 37-38). SONET is a network that utilizes optical fiber lines which provides users with "higher reliability, superior performance, and greater flexibility than traditional copper-based systems" (Column 1, lines 33-35). Also, SONET provides protection switching using redundant transmission lines that transmit traffic in opposite directions around the SONET ring 12" (Column 3, lines 57-59). Refer to Column 1, lines 29-61; Column 1, line 66 to Column 2, line 5; Column 2, lines 23-46; and Column 3, lines 41-59. Therefore, it would have

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been obvious to one of ordinary skill in the art at the time the invention was made to include that the gateways 20-23 are SONET/SDH nodes, the motivation being that SONET uses optical fiber lines which provides better reliability and flexibility than copper-based systems, and uses a dual ring network to provide for protection switching in case of network failure.

3. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,765,864 to Natarajan et al.

Natarajan et al disclose in Figure 2 in a transmission system including a plurality of nodes (Elements 204A/B, 208A/B) and a supervisory control device (Elements 252, 254, 260, 262 and 270) for managing a network composed of these nodes (Elements 204A/B, 208A/B), each of said nodes (Elements 204/B, 208A/B) comprising:

Performance data generating means (Monitor/agent, not shown) for measuring individual data items about the monitoring items defined for a plurality of objects (CIR, EIR, Bc, Be, congestion indicators, number of packets dropped, queue length) to be measured according to a specific schedule (when the operation of the network element has been affected) and, on the basis of the result of the measurement, creating performance data. Refer to Column 7, line 50 to Column 8, line 14 and Column 8, line 46 to Column 9, line 22.

Notifying means (Monitor/agent, not shown) for notifying the performance data created by the performance data generating means (Monitor/agent, not shown) to said supervisory control device (Elements 252, 254, 260, 262 and 270). The monitor/agent

is used for monitoring, measuring and/or computing information and for reporting this information to the data store 252. Refer to Column 8, lines 60-66.

Timing setting means (Event handler 274) for setting the timing for the notifying means (Monitor/agent, not shown) to notify performance data for each piece of performance data according to the configuration information about its own device. The monitor/agent reports the performance data to the data store 252 and policy agent 254; the policy agent then updates the information to affect the operation of the network element. When the information is updated, the event handler 274 notifies the network element of the updated information; the network element then measures the performance data again to report updated performance information to data store 252 and policy agent 254. Refer to Column 7, line 50 to Column 8, line 14; Column 10, lines 58-62; Column 11, lines 32-49; and Column 22, lines 23-35.

Natarajan et al do not disclose that the network elements 204A/B, 208A/B are SONET/SDH nodes. The network elements 204A/B, 208A/B can be gateways (Column 8, lines 55-59). Refer to the rejection of claim 14.

Allowable Subject Matter

4. Claims 1-13 are allowed.

Response to Arguments

5. Applicant's arguments filed November 18, 2004 have been fully considered but they are not persuasive.

Referring to the argument regarding claim 14 that Grabelsky et al does not refer to a SONET/SDH node (page 13, lines 14-17), refer to the rejection of claim 14.

Referring to the argument regarding claim 15 that Natarajan et al does not refer to a SONET/SDH node (page 13, lines 18-20), refer to the rejection of claim 15.

Referring to the argument regarding claim 15 that the timing setting means is not provided at the element itself (page 14, line to page 15, line 2), Natarajan et al disclose in Figure 2 an event handler 274A in network element 204A and an event handler 274B in network element 204B. The monitor/agent reports the performance data to the data store 252 and policy agent 254; the policy agent then updates the information to affect the operation of the network element. When the information is updated, the event handler 274 notifies the network element of the updated information; the network element then measures the performance data again to report updated performance information to data store 252 and policy agent 254. The event handler 274 therefore sets the time at which the network element should send its performance data, which is when the information is updated. This occurs according to the configuration information about a network element itself, since each network element has a different schedule of monitoring and updating. Refer to Column 7, line 50 to Column 8, line 14; Column 10, lines 58-62; Column 11, lines 32-49; and Column 22, lines 23-35.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine Ng whose telephone number is (571) 272-3124. The examiner can normally be reached on M-F; 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (571) 272-3139. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

C. Ng *CV*
March 31, 2005

Ricky Ngo
RICKY NGO
PRIMARY EXAMINER
PRIMARY EXAMINER

3/31/05